

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RANDALL ASBURY VANLANDINGHAM, JR.,

Petitioner,

v.

Case Number: 05-10249
Honorable David M. Lawson

KENNETH MCKEE,

Respondent.

CORRECTED ORDER DENYING CERTIFICATE OF APPEALABILITY

The Court denied Randall VanLandingham's petition for a writ of habeas corpus on September 3, 2008. The petitioner has filed a notice of appeal. However, before an appeal under 28 U.S.C. § 2254 may proceed, the district court must first determine whether to certify any issues for appeal.

A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Courts must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P. 22(b); *In re Certificates of Appealability*, 106 F.3d 1306, 1307 (6th Cir. 1997). To receive a certificate of appealability, "a petitioner must show that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (internal quotes and citations omitted).

The petitioner alleges that he was denied his constitutional right to confront witnesses against him during trial. The Court found that, although there were some evidentiary errors under state law

committed by the state court, the petitioner's constitutional rights were not violated. The Court concludes that reasonable jurists would not disagree with the Court's resolution of the petitioner's claims and the petitioner does not deserve encouragement to proceed further. Therefore, the Court will deny the petitioner a certificate of appealability.

Accordingly, it is **ORDERED** that a certificate of appealability is **DENIED** with respect to the petitioner's claims.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: September 24, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 24, 2008.

s/Felicia M. Moses
FELICIA M. MOSES